

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

GERARDO GARZA-MONTENEGRO, Petitioner, vs. J.W. COX, IN HIS CAPACITY AS WARDEN OF YANKTON FEDERAL PRISON CAMP; Respondent.	4:20-CV-04190-LLP ORDER FOR SERVICE AND TO SHOW CAUSE
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Petitioner Gerardo Garza-Montenegro, an inmate at the Yankton Federal Prison Camp, in Yankton, South Dakota, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court directs the petition in this case be served and that a response be filed.

A § 2241 petitioner must exhaust administrative remedies before filing. Mathena v. United States, 577 F.3d 943, 946 (8th Cir. 2009); Thompson, 297 Fed. Appx. at 562; United States v. Chappel, 208 F.3d 1069 (8th Cir. 2000). In his submissions, Mr. Garza-Montenegro states he is still waiting for a response on his request for administrative remedy. Therefore, the parties will be directed to show cause why the petition should not be dismissed for failure to exhaust administrative remedies.

Accordingly, IT IS ORDERED that:

- (1) Petitioner shall pay the \$5.00 filing fee by December 23, 2020.
- (2) the Clerk of Court shall serve upon respondent and the United States Attorney for the District of South Dakota a copy of the petition, attachments to the petition, and this order;

(3) That both respondent and Mr. Garza-Montenegro shall show cause no later than December 23, 2020, why Mr. Garza-Montenegro's petition should not be dismissed without prejudice for failure to exhaust his administrative remedies.

Mr. Garza-Montenegro is notified that failure to respond to the above order to show cause may result in dismissal of his petition in this court.

DATED this 4th day of December, 2020.

BY THE COURT:



VERONICA L. DUFFY
United States Magistrate Judge